

AMENDED IN ASSEMBLY APRIL 21, 2016

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1945

Introduced by Assembly Member Mark Stone

February 12, 2016

An act to amend Section 786 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as amended, Mark Stone. Juveniles: sealing of records.

Existing law subjects a person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge that person to be a ward of the court, except as specified. Under existing law, juvenile court proceedings to declare a minor a ward of the court are commenced by the filing of a petition by the probation officer, the district attorney after consultation with the probation officer, or the prosecuting attorney, as specified. Existing law requires the juvenile court to order the petition of a minor who is subject to the jurisdiction of the court dismissed if the minor satisfactorily completes a term of probation or an informal program of supervision, as specified, and requires the sealing of records pertaining to that dismissed petition, as specified. Existing law specifies circumstances under which a record that has been ordered sealed pursuant to these provisions may be accessed, inspected, or utilized.

This bill would allow a child welfare agency of a county responsible for the supervision and placement of a minor or nonminor dependent

to access a record that has been ordered sealed for the limited purpose of determining an appropriate placement or service.

~~Existing law prohibits a court from sealing a record or dismissing a petition pursuant to these provisions if the petition was sustained based on a commission of certain specified offenses unless the finding on the offense was dismissed or was reduced to a lesser offense that is not specified.~~

~~This bill would additionally allow the court to seal a record if the offense was reduced to a misdemeanor.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 786 of the Welfare and Institutions Code
2 is amended to read:

3 786. (a) If a minor satisfactorily completes (1) an informal
4 program of supervision pursuant to Section 654.2, (2) probation
5 under Section 725, or (3) a term of probation for any offense, the
6 court shall order the petition dismissed. The court shall order sealed
7 all records pertaining to the dismissed petition in the custody of
8 the juvenile court, and in the custody of law enforcement agencies,
9 the probation department, or the Department of Justice. The court
10 shall send a copy of the order to each agency and official named
11 in the order, direct the agency or official to seal its records, and
12 specify a date by which the sealed records shall be destroyed. Each
13 agency and official named in the order shall seal the records in its
14 custody as directed by the order, shall advise the court of its
15 compliance, and, after advising the court, shall seal the copy of
16 the court's order that was received. The court shall also provide
17 notice to the minor and the minor's counsel that it has ordered the
18 petition dismissed and the records sealed in the case. The notice
19 shall include an advisement of the minor's right to nondisclosure
20 of the arrest and proceedings, as specified in subdivision (b).

21 (b) Upon the court's order of dismissal of the petition, the arrest
22 and other proceedings in the case shall be deemed not to have
23 occurred and the person who was the subject of the petition may
24 reply accordingly to an inquiry by employers, educational
25 institutions, or other persons or entities regarding the arrest and
26 proceedings in the case.

1 (c) (1) For purposes of this section, satisfactory completion of
2 an informal program of supervision or another term of probation
3 described in subdivision (a) shall be deemed to have occurred if
4 the person has no new findings of wardship or conviction for a
5 felony offense or a misdemeanor involving moral turpitude during
6 the period of supervision or probation and if he or she has not
7 failed to substantially comply with the reasonable orders of
8 supervision or probation that are within his or her capacity to
9 perform. The period of supervision or probation shall not be
10 extended solely for the purpose of deferring or delaying eligibility
11 for dismissal of the petition and sealing of the records under this
12 section.

13 (2) An unfulfilled order or condition of restitution, including a
14 restitution fine that can be converted to a civil judgment under
15 Section 730.6 or an unpaid restitution fee shall not be deemed to
16 constitute unsatisfactory completion of supervision or probation
17 under this section.

18 (d) A court shall not seal a record or dismiss a petition pursuant
19 to this section if the petition was sustained based on the
20 commission of an offense listed in subdivision (b) of Section 707
21 that was committed when the individual was 14 years of age or
22 older unless the finding on that offense was dismissed or was
23 reduced to a misdemeanor or to a lesser offense that is not listed
24 in subdivision (b) of Section 707.

25 (e) (1) The court may, in making its order to seal the record
26 and dismiss the instant petition pursuant to this section, include
27 an order to seal a record relating to, or to dismiss, any prior petition
28 or petitions that have been filed or sustained against the individual
29 and that appear to the satisfaction of the court to meet the sealing
30 and dismissal criteria otherwise described in this section.

31 (2) An individual who has a record that is eligible to be sealed
32 under this section may ask the court to order the sealing of a record
33 pertaining to the case that is in the custody of a public agency other
34 than a law enforcement agency, the probation department, or the
35 Department of Justice, and the court may grant the request and
36 order that the public agency record be sealed if the court determines
37 that sealing the additional record will promote the successful
38 reentry and rehabilitation of the individual.

(f) (1) A record that has been ordered sealed by the court under this section may be accessed, inspected, or utilized only under any of the following circumstances:

(A) By the prosecuting attorney, the probation department, or the court for the limited purpose of determining whether the minor is eligible and suitable for deferred entry of judgment pursuant to Section 790 or is ineligible for a program of supervision as defined in Section 654.3.

(B) By the court for the limited purpose of verifying the prior jurisdictional status of a ward who is petitioning the court to resume its jurisdiction pursuant to subdivision (e) of Section 388.

(C) If a new petition has been filed against the minor for a felony offense, by the probation department for the limited purpose of identifying the minor's previous court-ordered programs or placements, and in that event solely to determine the individual's eligibility or suitability for remedial programs or services. The information obtained pursuant to this subparagraph shall not be disseminated to other agencies or individuals, except as necessary to implement a referral to a remedial program or service, and shall not be used to support the imposition of penalties, detention, or other sanctions upon the minor.

(D) Upon a subsequent adjudication of a minor whose record has been sealed under this section and a finding that the minor is a person described by Section 602 based on the commission of a felony offense, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of determining an appropriate juvenile court disposition. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or modification of the court's order dismissing the petition and sealing *the* record in the prior case.

(E) Upon the prosecuting attorney's motion, made in accordance with Section 707, to initiate court proceedings to determine the minor's fitness to be dealt with under the juvenile court law, by the probation department, the prosecuting attorney, counsel for the minor, or the court for the limited purpose of evaluating and determining the minor's fitness to be dealt with under the juvenile court law. Access, inspection, or use of a sealed record as provided under this subparagraph shall not be construed as a reversal or

1 modification of the court's order dismissing the petition and sealing
2 the record in the prior case.

3 (F) By the person whose record has been sealed, upon his or
4 her request and petition to the court to permit inspection of the
5 records.

6 (G) The probation department of any county may access the
7 records for the limited purpose of meeting federal Title IV-B and
8 Title IV-E compliance.

9 (H) The child welfare agency of a county responsible for the
10 supervision and placement of a minor or nonminor dependent may
11 access a record that has been ordered sealed by the court under
12 this section for the limited purpose of determining an appropriate
13 placement or service that has been ordered for the minor or
14 nonminor dependent by the court. The information contained in
15 the sealed record and accessed by the child welfare worker or
16 agency under this subparagraph may be shared with the court or
17 with a service or placement provider as necessary to implement
18 the court-ordered service or placement but shall in all other respects
19 remain confidential. Access to the sealed record under this
20 subparagraph shall not be construed as a modification of the court's
21 order dismissing the petition and sealing the record in the case.

22 (2) Access to, or inspection of, a sealed record authorized by
23 paragraph (1) shall not be deemed an unsealing of the record and
24 shall not require notice to any other agency.

25 (g) (1) This section does not prohibit a court from enforcing a
26 civil judgment for an unfulfilled order of restitution ordered
27 pursuant to Section 730.6. A minor is not relieved from the
28 obligation to pay victim restitution, restitution fines, and
29 court-ordered fines and fees because the minor's records are sealed.

30 (2) A victim or a local collection program may continue to
31 enforce victim restitution orders, restitution fines, and court-ordered
32 fines and fees after a record is sealed. The juvenile court shall have
33 access to records sealed pursuant to this section for the limited
34 purpose of enforcing a civil judgment or restitution order.

35 (h) This section does not prohibit the State Department of Social
36 Services from meeting its obligations to monitor and conduct
37 periodic evaluations of, and provide reports on, the programs
38 carried under federal Title IV-B and Title IV-E as required by
39 Sections 622, 629 et seq., and 671(a)(7) and (22) of Title 42 of the

- 1 United States Code, as implemented by federal regulation and state
- 2 statute.
- 3 (i) The Judicial Council shall adopt rules of court, and shall
- 4 make available appropriate forms, providing for the standardized
- 5 implementation of this section by the juvenile courts.